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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/643,224	08/20/2000	Josephus Kuster	64645-1025	8547

27045 7590 06/14/2005

ERICSSON INC.
6300 LEGACY DRIVE
M/S EVR C11
PLANO, TX 75024

EXAMINER	
KADING, JOSHUA A	
ART UNIT	**PAPER NUMBER**
2661	

DATE MAILED: 06/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/643,224	KUSTER ET AL.	
	Examiner	Art Unit	
	Joshua Kading	2661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *18 February 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *21-40* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *21-40* is/are rejected.

7)☒ Claim(s) *21, 32, and 36* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *20 August 2000* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claims 21, 32, and 36 are objected to because of the following informalities:

Claim 21, lines 4-6; and claim 36, lines 5 and 6, each instance of "provides communication link" should be changed to --provides a communication link--.

Claim 21, line 21, "said controlling signal" should be changed to --said controlling signal from said second call control server-- to properly distinguish it.

Claim 32, the status of the claim is indicated as "Currently Amended." However, there have no amendments made to the claim. The status indicator should be updated to properly reflect the status of the claim.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 21-23, 25-27, 29-33, 36, 37, and 39 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent 6,717,939 B1, McGrew.

Regarding claims 21 and 36, McGrew discloses, "a method for establishing a packet communications link within a packet based communication network having a first call control server communicating with a first media gateway (*figure 1, element 106 is a first call control server and element 110 is a first media gateway*) and a second call control server communicating with a second media gateway (*figure 1, element 108 is a second call control server and element 112 is a second media gateway*) wherein said first media gateway provides a communication link to a calling party terminal and said second media gateway provides a communication link to a called party terminal, in response to a circuit switched call setup message (*col. 4, lines 58-60*), comprising the steps of:

providing a controlling signal from said first call control server to said first media gateway for establishing a first termination point for connecting said first media gateway with said calling party terminal (*col. 3, lines 57-65*) wherein said first media gateway further connecting said calling party terminal communicating circuit switched data to said packet based communications network (*col. 4, lines 18-20*);

generating a circuit switched call setup message from said first call control server to said second call control server associated with said called party terminal (*col. 4, lines 23-27*), said call setup message further including identification data associated with said first media gateway (*col. 4, line 25*);

providing a controlling signal from said second call control server to said second media gateway for establishing a second termination point for connecting said second media gateway with said called party terminal (*col. 4, lines 33-37*) wherein said second

media gateway further connecting said called party terminal communicating circuit switched data to said packet based communications network wherein said controlling signal from said second call control server further includes the identification data associated with said first media gateway (*col. 4, lines 47-50*); and

establishing a call specific packet communication link from said second media gateway to said first media gateway for communicating data between said calling party terminal and said called party terminal (*col. 4, lines 50-60*)."

Regarding claim 32, McGrew discloses, "a packet based communication network including a first media gateway for communicating with a first party terminal (*figure 1, element 110*), a first call control server for controlling said first media gateway (*figure 1, element 106*) and a second media gateway for communicating with a second party terminal (*figure 1, element 112*), and a second call control server for controlling said second media gateway (*figure 1, element 108*), said packet based communication network comprises:

means within said first call control server for instructing said first media gateway to establish a first termination point for communicating with said first party terminal (*col. 3, lines 65-67*) wherein said first media gateway receiving circuit switched data from said first party terminal and establishing a second termination point for communicating packet data including circuit switched data received from said first party terminal with said second media gateway over said packet based communication network in

response to receiving a call setup request from said first party terminal towards said second party terminal (*col. 3, lines 57-59 and col. 4, lines 23-27*); and

means within said first call control server for generating a circuit switched based call setup message towards said second call control server wherein said call setup message includes identification data associated with said second termination point (*col. 4, lines 23-27*)."

Regarding claim 22, McGrew discloses, "wherein the establishment of the first termination point further comprises the establishment of a third termination point within said first media gateway for communicating packet data with said second media gateway (*col. 3, lines 65-67*)."

Regarding claim 23, McGrew discloses, "wherein the establishment of the third termination point further comprises issuance of a response containing the information associated with the address of the third termination point from the first media gateway to the first call control server (*col. 3, lines 65-67*)."

Regarding claim 25, McGrew discloses, "wherein said third terminal point is further communicated from the first call control server to said second call control server within said generated call setup message (*col. 4, lines 23-27*)."

Regarding claim 26, McGrew discloses, "wherein the generation of a call setup message from said first call control server to said second call control server comprises transmitting a call setup message over a circuit switch network connection (*col. 3, lines 36-40 where the call setup message travels from the PSTN to the first control server over a circuit switched network and which then setups proceeds with connection establishment with the second control server*)."

Regarding claims 27, 33, and 37, McGrew disclose, "said means for generating said call setup message generates an ISDN IS49 User Part (ISUP) signal over a circuit switch network connecting said first call control server with said second call control server (*col. 3, lines 43-46*)."

Regarding claim 29, McGrew discloses, "wherein the establishment of the second termination point further comprises the establishment of a fourth termination point within said second media gateway for communicating packet data with said first media gateway (*col. 4, lines 18-20 and 47-50 where the virtual circuit paths must be connected so that the call can be complete, therefore, the gateways are then also connected*)."

Regarding claim 30, McGrew discloses, "wherein said establishment of said communication link comprises the step of establishing a third termination point within said first media gateway and further establishing a link from said second media gateway

to said first media gateway using said fourth termination point and said third termination point as two terminating addresses (*col. 4, lines 58-60*)."

Regarding claim 31, McGrew discloses, "wherein the issuance of said controlling signal from said first call control server to said first media gateway comprises the issuance of an ADD message (*col. 4, lines 23-33 where the call setup message to the second control server is functionally equivalent to an ADD message because it operates to tell the control server to add or establish a connection to the called terminal party through the respective gateway*)."

Regarding claim 39, McGrew discloses, "wherein said second media gateway establishes a call specific packet communication link towards said first media gateway using said second termination point as the destination address (*col. 4, lines 50-60 where the information from the second media gateway is used to finally establish the connection over the packet network between the two gateways*)."

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 24, 34, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over McGrew in view of U.S. Patent 6,614,781 B1, Elliot et al. (Elliot).

Regarding claims 24, 34, and 38, McGrew discloses, "...information associated with said second termination point within said first media gateway (*col. 4, lines 33-37, specifically line 35 where the Virtual Circuit connection is information used to associate the termination point with said first gateway*)." However, McGrew lacks what Elliot discloses, that said information is "UDP" information (*figure 2B, path 284 shows the UPD information associated with the communication points between the gateways; it should be further noted that although McGrew deals with ATM VC address ports and Elliot deals with UDP address ports, one of ordinary skill in the art would recognize that they perform similar functions in their respective network protocols, i.e. to direct traffic to a specific port*). It would have been obvious to one of ordinary skill in the art at the time of invention to include the UDP addressing for the purpose of establishing a connection between two points. The motivation is so that call setup through the gateways can finish and the call can commence.

6. Claims 28, 35, and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over McGrew in view of U.S. Patent 6,754,180 B1, Christie.

Regarding claims 28, 35, and 40, McGrew lacks what Christie discloses, "wherein said means within said first call control server uses H.248 protocol over a packet based link for instructing said first media gateway (*col. 1, lines 42-51 where the "bearer path" indicates the protocol is used over the packet based link*)." It would have

been obvious to one with ordinary skill in the art at the time of invention to include the H.248 protocol for the purpose of eliminating the need to monitor the bearer path for DTMF tones. The motivation for doing so is to create a more efficient network.

Response to Arguments

7. Applicant's arguments, see REMARKS, page 8, section 2, filed 18 February 2005, with respect to the objection to claim 33 have been fully considered and are persuasive. The objection of claim 33 has been withdrawn.

8. Applicant's arguments, see REMARKS, page 9, second full paragraph, lines 2-4, regarding "circuit switched call setup message", filed 18 February 2005, with respect to the rejections of claims 21-40 under 35 U.S.C. 102(e) and 35 U.S.C. 103 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of newly found prior art.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua Kading whose telephone number is (571) 272-3070. The examiner can normally be reached on M-F: 8:30AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen can be reached on (571) 272-3126. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Joshua Kading
Examiner
Art Unit 2661

June 6, 2005

CHAU NGUYEN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600